

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES FERRARA,

Plaintiff,

Docket No.: 1:20-cv-05797

-against-

SYSCO BOSTON, LLC and JASON BREGOLI.

Defendants.

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NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK:**

Defendants Sysco Boston, LLC (“Sysco”) and Jason Bregoli (“Bregoli”) by and through their attorneys, Haworth Barber & Gerstman, LLC, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby files this Notice of Removal of this civil action from the Supreme Court of the State of New York, Richmond County, to the United States District Court for the Eastern District of New York. The grounds for removal are as follows:

1. On or about November 3, 2020 plaintiff James Ferrara commenced an action against defendants Sysco and Bregoli in New York State Supreme Court, Richmond County. The suit is identified in the Supreme Court as James Ferrara v. Sysco Boston, LLC and Jason Bregoli, bearing Index No.: 151992/2020. See Summons and Complaint, attached as **Ex. “A.”**

2. Defendants became aware that there is complete diversity of citizenship among the parties at the time it became aware of the within lawsuit on November 5, 2020, which was its first notice of this action. The filing of this Notice of Removal is timely because it is made within thirty days of the date on which defendants first received notice that this action is removable on the basis of diversity jurisdiction under 28 U.S.C. §§ 1332 and 1441(a).

3. Based upon plaintiff's Summons and Complaint, plaintiff is a resident of the State of New York. See Exhibit "A."

4. Defendant Jason Bregoli is a resident of the State of Massachusetts. See id.

5. It is well established that a corporation is a citizen of the state in which it is incorporated and the state where its principal place of business or "nerve center" is located. See 28 U.S.C. § 1332(c)(1); Johnson v. SmithKline Beecham Corp., 853 F. Supp. 2d 487, 490 (E.D. Pa. 2012), aff'd, 724 F.3d 337 (3d Cir. 2013).

6. Sysco is a corporation duly organized under the laws of the State of Delaware. It maintains a principal place of business at 99 Spring Street, Plympton, Massachusetts for purposes of 28 U.S.C. § 1332.

7. This is a civil action for personal injuries and upon information and belief based upon the allegations as set forth in the Complaint, plaintiffs seek damages in excess of \$75,000.00, exclusive of interest and costs. See Exhibit "A."

8. Based on the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) based on diversity of citizenship.

9. The removal statute now embodied in section 28 of the Judicial Code (U. S. Code, tit. 28, § 71 [28 USCA § 71]), providing for removal from the state court to the District Court, authorizes removal at the request of the defendants in all cases in which the District Court has jurisdiction. See Tilly v. Nat'l City Bank of New York, 149 Misc. 519, 521, 267 N.Y.S. 667, 669 (Sup. Ct. 1933).

10. Accordingly, as defendant Bregoli is a resident of the State of Massachusetts, defendant Sysco is for removal purposes a resident of the States of Massachusetts and Delaware

and plaintiff is a resident of New York, this action is properly removable to this Court pursuant to 28 U.S.C. § 1441(a) and Local Civil Rule 81.1.

11. Additionally, pursuant to 28 U.S.C. § 1446(a) and (d) defendants have served a copy of this Notice of Removal upon all parties, and have filed a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, Richmond County.

12. Attached to this Notice of Removal is a copy of all records and proceedings in the state court from which this case is to be removed. To date, only the Summons and Complaint have been filed. See Exhibit "A"

WHEREFORE, defendants respectfully request that the action pending in the Supreme Court of the State of New York, Richmond County, bearing Index No. 151992/2020, be removed therefrom to this Court.

Dated: New York, New York
 December 1, 2020

HAWORTH BARBER & GERSTMAN, LLC

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